

Sacred Spaces in Secular (post)-Lutheran Contexts on the Danish Church Asylum Case

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Lisbet Christoffersen

Sacred Spaces in Secular (Post)-Lutheran Contexts

Abstract

This study analyses how and to what extent a Lutheran *folkekirke*¹ as a church building could function as a religious space in a recent situation in which church asylum was claimed.

The event in question took place between June and August 2009. It ended when the police forcibly entered the church building late at night and captured a number of asylum-seekers who had hidden in the church to escape deportation. Church asylum for this group of around 60 Iraqi asylum-seekers whose applications had been rejected was established and supported by a group of young political leftist activists (including some former students of mine who had followed classes in law, religion and society). They named their supportive action and the action by the asylum-seekers as *Kirkeasyl* (Church Asylum). They were further supported by established groups of activists within the church. They argued that providing asylum for those without shelter must be the role of the church – especially for a majority church that must be aware of the situation for minorities in the country.

Some Danish theologians, among them the Dean of Copenhagen and the Bishop of Aarhus, supported this view. Other Danish theologians, however, among them another bishop, publicly stated that there was no concept of church asylum in a Lutheran church, no concept of sacred spaces and no dimension of church law that differed from secular law. The police argued that there was only one legitimate power in the country, namely that of democratically constituted law and police enforcement. Politicians from all sides supported this argument, trying to dissolve any discursive normative ideas of the *folkekirke* as a potential counterweight to law and order in the country.²

1 As has become common for Nordic scholars, I use the Danish constitutional concept of *folkekirke* for the national church of Denmark, which is by constitution obliged to be Lutheran and which the state, also by constitution, is obliged to support. Approximately 80 per cent of Danes are baptised members of the *folkekirke*. For a discussion about the correct translation, see for example the introduction in Christoffersen 2010 p. 145–147

2 The story on church asylum was widely covered by the media during those months, and I have read all the articles in the written media concerning the case. Two journalists in the old leftist newspaper *Information* covered the case based on insight from the activists and have subse-

The case thus opened for broad public debate in Denmark on whether or not sacred spaces legally existed in twenty-first-century post-Lutheran society, and what consequences an idea of church asylum could have for the (Lutheran) understanding of the state, the law and the role of the church.

Introduction

In this article I will first identify possible heterogeneous religious, secularist and post-secularist positions or values expressed and contested in the specific case of church asylum mentioned above. I will do so with the help of spatial methodology, as suggested by Kim Knott in her contribution to this book.³ In Knott's methodology, these three positions are to be understood as ideological positions (and therefore secularist rather than secular or secularisation). In Knott's model the first of these three concepts consists of a position which tends to exclude any secular approaches to or within the concrete space in focus (*religious* approach). The second position excludes any religious approaches to or within the analysed space (the secularist position). The third, the synthetic camp, moves beyond the dialectic position and thereby possibly expresses a development in the field (the "*post-secularist* position). In Knott's model, the three positions represent camps in three corners and differ from the space actually analysed. Knott also suggests that there will be struggles both between the camps and within the camps, allowing for what I suggest could be conceptualised as *intertwined* positions. A relevant question of course is whether or not it is at all possible to find any clear-cut positions in a Danish context; this question will be part of my analysis below.

Knott's methodology was developed in order to disclose possible hidden,

quently published a book on the case (Geist and Geist: 2011). Interviews, newspaper articles, etc. were also published by Frydenlund: 2011. I also interviewed four of the central actors in the case in three one-hour personal interviews and one e-mail exchange. The four interviewees are the Dean of the Cathedral of Copenhagen (the first site for asylum. He subsequently followed the case as representative for the bishop), the press officer for the activists, a former student of mine from Roskilde University, the Minister for Integration, who was responsible for the policy decisions in the case, and the Head of Police in Copenhagen, who was responsible for the police reaction to the church asylum case. The case is still a contentious issue in the Danish political context and I will therefore not quote directly from any of this material in this article; links between material and the article can be established through contacting me as author, lic@ruc.dk. Finally, one of the key points during the summer in this case was a public demonstration at the city hall of Copenhagen, where Svend Auken, former minister for environment, former chair of the leading Social Democratic Party and known to be a rather liberal but practising Christian, held his last public speech before dying of cancer. I have included both his speech and the speech held by the Bishop of Aarhus in relation to his burial in the empirical material as a basis for this article.

3 See Kim Knott's article in this book, presenting the five steps in the methodology. I have used these five steps as sub-headings in the first part of my article.

non-secular values in clearly perceived secular contexts. She argues – with reference to other researchers in the field – that the secular is an object or space for which religion provides a secondary point of reference, authority or concern, but that even within a secular space it is possible to identify this secondary reference point and thus also identify not only secularist but also religious and post-secularist positions in such a secular space. My spatial context – a church building – is, on the contrary, perceived by most people as a non-secular religious space. As my case study shows, however, an interpretation of a church as a religious space is not self-evident in regard to the Evangelical Lutheran Church of Denmark, the Danish *folkekirke*. Knott's methodology therefore seems even more relevant to use in order to disclose not only religious interpretations of the space but also secularist and post-secularist values which perhaps are less hidden than one would have expected, linked to the same space.

Following José Casanova's idea of a possible post-Reformation difference between Catholic European, Protestant European, and American conceptualisations of religious, secularist and perhaps also post-secularist positions (also presented in this book), the second part of my article discusses how these three concepts are interpreted in a (post)-Lutheran context such as the Danish, again using my empirical example, the *church asylum* case.

In this connection, the theoretical approach presented by John Witte in his contribution to this book provides the analytical framework and context for the discussion. My use of the concept *(post)-Lutheran*⁴ implies that even though there might be clarity around the Lutheran concepts and their historical traces in the Danish context, Lutheranism is still reinterpreted in any current Danish context.⁵ The question is thus to determine the extent to which Lutheran theology is still forming our discourse when interpreting a church as a site of conflict between rejected asylum-seekers and the police. This is not a question I intend to answer in this article, but my use of the concept *(post)-Lutheran* suggests at least that other normative frameworks and other theological normative frameworks are at stake in this context.

The basic theoretical idea of this book is to map and measure the hidden sacrality of the secular in a Nordic context. My article contributes to this common project by an analysis of whether or not it is possible to identify any hidden sacrality in the Danish secular conceptualisation of what could be perceived as religious, namely a church building. The question is whether or not the Nordic idea of a supposed *intertwinement*⁶ of religion and the secular can be identified in a specific case, where basic entities representing the

4 The first use of the concept '(post)-Lutheran' that I know of appeared in the editorial conclusive article *Nordic Law in Changed Religious Landscapes* in Christoffersen et al. (2010).

5 For the most current example, see Niels Henrik Gregersen (ed.): 2013.

6 I introduced this concept as empirically relevant for law and religion studies in Christoffersen: 2006.

secular (the police or the law) are approaching a conceived idea of the sacred (the altar in a sacralised church building). An integral part of this question is how specific people in a specific conflict can regard possible cracks of hidden sacrality in a secular reality. The fundamental question behind these theoretical analyses is: What else could – or even should – the police have done?

Church Asylum in Copenhagen, Summer 2009

That *the body* can be a *source and resource* for identifying possible religious, secularist and post-secularist positions in a concrete *space*, is the first of the five dimensions in Kim Knott's methodological approach, and is used here to explain and possibly reveal religious, secularist and post-secularist norms that were at stake in the case of church asylum in Copenhagen in 2009. Knott's idea is that the body is *the* single space, where general norms and ideas are linked to concrete cases and conflicts, and her idea is certainly useful in analysing the Danish church asylum case.

On the surface, a bodily approach to this case only reveals secularist norms or values: a group of up to 228 asylum-seekers from Iraq had lived for up to ten years in asylum camps, waiting and hoping that their applications to remain in Denmark would be approved. Their applications had been denied, as were their applications to stay on humanitarian grounds. The government had tried to motivate them to return to Iraq by promising financial support on their return, but they had remained in Denmark because they feared Iraq more than ten years of waiting in an asylum camp. Now the situation had changed. In the spring of 2009, the Danish government had established an agreement with Iraq to receive Iraqi citizens after individual scrutiny. The asylum-seekers feared for their lives after deportation from Denmark to Iraq; they feared that their bodies would become places of personal prosecution because of their original flight.

They did not argue that their bodies should be perceived as anything special from a religious point of view. Their own view on the situation of their bodies was neither religious nor post-secular. They simply thought that their basic fear would lead into a (very secular) legal situation, protecting their bodies on grounds of Human Rights.

Their support groups – especially those with not-accepted religious arguments – disagreed, and were specifically religious in their argumentation: it is the duty of any Christian to open his or her door for a neighbour or a foreigner asking for help, even if the person knocking on the door is seeking illegal refuge. The understanding is that the law is not always fair or righteous and that no individual should lose his or her life because of unjust decisions.

The leftist activists, who organised this case of church asylum argued differently. Their focus was on humanity: it was against humanity that these individuals should live so many years in Denmark only to be rejected and deported to an uncertain future. They did not trust any of the promises from the Iraqi state; their view was that individual scrutiny by Iraq would result in the death penalty for many within the group. They knew that the Christian support groups had a religious language for focusing on individual humanity; they did not, however, have such a language, and at times they found the religious dimension not only tiring but also somewhat uncontrollable. For them, the fight was political.

The organisers of the *Church Asylum* initiative also brought their own bodies into play: when the police finally cleared the church of asylum-seekers after three months, around three hundred activists quickly mobilised and placed their own bodies in front of the buses that were to take the asylum-seekers away. The police response was not long in coming: pepper spray and rubber batons, but the protesters continued to base their actions on human rights rather than on religion.

Their position could easily be described as post-secular in the sense that they acknowledged and made use of the religious language of others in order to support their own, basically secular, case. Even though that seems to be the case, neither their own report on the church asylum case nor the interviews I have conducted opened for any religious language: they remained secularist in their position, though they agreed that secularist and religious camps could work together politically, hence the potentially post-secularist position.

The case initially began at midday on a Sunday in late June, just after high mass in the Cathedral in Copenhagen, when around 60 of some 228 rejected Iraqi asylum-seekers walked into the cathedral building while churchgoers were leaving. They camped in the aisles of the church, clearly demonstrating their intention to stay. The basic – secularist – idea of the organisers, *Church Asylum*, was that by showing the bodies of the rejected people, the Danish public would react and take a stand on the Iraqi agreements, and that by doing this in the Cathedral or another church rather than in a mosque or the city hall, they would combine the bodies of the asylum-seekers with fundamental Danish norms and values and perhaps their own partly religious identity. Thus the idea behind this use of the bodies of the asylum-seekers in the church also became post-secularist in character.

On the night when the police came to capture them, the asylum-seekers also applied for a religious understanding of their bodies by entering the church as such, hiding behind and in front of the altar, with the result that police officers forcibly drew them down from what could be perceived as the most holy site of a church. This was, however, still not based on a religious understanding of their bodies, more on a (semi-)-religious understanding of how to use the place in which they were hiding; i.e., a post-secularist combination of religious and secular values related to the bodily element of the case.

Other bodies were also involved in the case: the vicar of Brorson's Church, the dean of the Cathedral, the two congregational councils and the bishop. How do we view their bodily representation of a position? And that of the police force and the minister for integration, who also happened to be responsible for ecclesiastical affairs and was thus politically responsible for both the issue of the Iraqi asylum-seekers and the issue of church asylum. What was the Danish public's bodily picture of her?

As for the vicar, the dean and the two involved congregational councils, the answer is clear. They all represented clear religious positions, even to the extent that the vicar of Brorson's Church was visible day and night both within the church in which he served and outside the church talking to the media during the three months the Iraqi people lived there. After three months, when the police finally entered the church in the middle of the night, he argued that this was police state methods and was uncalled for, thereby causing problems for his own position.

However, had the situation escalated into one in which normal use of the churches in question were disturbed, then other voices would have spoken out on the secularity of the case, on the (Lutheran) obligation to follow the law of the land and on the lack of religious identity among the groups supporting the asylum-seekers. In other words, the sense of being 'used' by secularists would have grown.

The congregational council in the Cathedral met the same afternoon as the *Church Asylum* initiative was established. They accepted religious arguments for not calling the police to empty the church, and arranged for services and other church functions could be upheld. The congregational council also offered to establish a point of contact between the group of asylum-seekers and the public authorities, a function, however, which *Church Asylum* had already taken upon itself. There was another problem the congregational council had to face, namely that the Cathedral – even though it is huge – did not have facilities for so many people to live there. *Church Asylum* therefore decided to move to the more distant but more suitable Brorson's Church, which was located in an area with a high immigrant population and more suitable facilities in the crypt. The congregational council also accepted this situation, arguing that during the summer it did not really have any impact on the daily running of the church. They therefore publically stated that they did not need of police assistance, thus deflecting any direct arguments by the police to enter the church and change the situation.

The bishop was newly elected and had not yet discussed this type of case in the public debate. The now retired bishop publicly stated his sadness over how the situation ended; the new bishop was, however, very outspoken on the secularity of law, the obligation to follow the law of the land, thus problematising the whole case of church asylum. When the situation had ended and the vicar of Brorson's Church criticised the way the police had tackled the situation, the bishop promptly sent the vicar on holiday leave, a

decision that opened for speculation as to whether he was siding with 'the state' in the case. He, however, maintains that the decision had been taken to protect the vicar from further trouble.

Police officers are of course trained in using their bodies to resolve concrete and problematic situations, no matter where the situations arise. They had tried to downscale the situation over the summer by, among other things, turning up at Brorson's Church without their uniform jackets in order to show a humanistic face and to negotiate with both the asylum-seekers and *Church Asylum*. The responsible police inspector sent many signals indicating that the police did not want to empty a church by force and thus tried to establish a post-secular situation, respecting the religious identity of the church as well as humanistic views of the asylum-seekers. As time went by, however, they decided to end the situation by clearing the church, dressed in full uniform and armed with shields, etc. Thus the different embodiments of the police force itself showed how the situation was perceived by the secular state: from a humanist-oriented post-secularity to a purely secularist position, showing where legitimate power and use of violence lie in a secular state.

Finally, the minister responsible for both immigration and ecclesiastical affairs steered clear of the case. She publicly stated very clearly that this case was not her immediate responsibility. As for the presence in the church, no-one had placed the case on her table and asked her to take responsibility; the congregational councils and the vicar did what they thought they should do according to their legal responsibilities for the church building, and no church functions seemed to be disturbed: she could keep out of it. And for the highly visible, illegal asylum-seekers the public response of the minister for immigration was that this was a case for the police; the ministry and minister herself decided cases under the law, and she did not want to interfere in the way in which the police handled the case of visible, illegal migrants in a church. The government minister thus succeeded in keeping her own person out of the picture, based on a secular(ist?), legalistic argument.

To conclude this first sub-analysis, a bodily-oriented, spatial focus already illustrates not only the three different positions suggested by Kim Knott: religious, secularist and post-secularist voices, embodied in the vicar, the police force on the night when the church was cleared, and the bishop, respectively. This first sub-analysis also shows a variety of positions between the clear-cut corners as well as many internal negotiations both within and between the clean positions.

As a second approach, Kim Knott suggests focusing on *physical, social and mental dimensions of space* in order to possibly identify religious, secularist and post-secularist positions. And here my case reveals a mental negotiation about how the physical space, the concrete place, the church building of high symbolic value (as is the case for both the Cathedral and Brorson's Church), is understood socially in current society. What is it that makes it a church; what is the impact of being a church; and what are the possible consequences of this

mentally negotiated physical space, in the social context of what is referred to as 'church'?

The leftist members of Church Asylum had no doubt: they did not attribute any sort of sacred dimension to specific buildings known as churches; they did, however, know from former cases that using a church of high symbolic value would lead to a huge public debate if they could link a common social understanding of a church (building) to a sacred place. And their understanding was that if this public focus intensified, they could establish a situation in a *folkekirke* (since that would unveil double standards in the minds of the majority), ideally in a church building in central Copenhagen and – even better – in the Cathedral, which has also hosted many public state events.⁷ Their position was thus secularist, though they did (in a post-secular manner) adopt a religious mentality by adding sacred dimensions to churches.

The public response was also a clear religious understanding of the site of a church as a sacred space, and provoked a discussion on whether or not it was acceptable for asylum-seekers to make use of church buildings as living accommodation. Many in Danish society agreed with the argument that sleeping in a church violated the sacrality of the church building. They were, however, overturned by other public voices, arguing that a church building must be open to those who are in need and who seek shelter. When the police forced open the church doors in the middle of the night and dragged the asylum-seekers out to waiting buses, climbing over young members of *Church Asylum*, many people criticised the way in which the police had reacted, and argued that it had been the police that had violated the sacrality of the church.

A picture of uniformed police standing above the Christian wording on the church altar provoked particularly strong reactions. The quotation from the Bible on the wall above read: "Believe in the Lord Jesus Christ and you shall be saved". The real-life reality, clearly illustrating police forces overthrowing religious forces, proved too much for many.

7 For example, a state memorial service was held there on 2 January 2005 for Danes who had lost their lives in the tsunami in Thailand in December 2004. The service was announced by the prime minister in his New Year's speech on New Year's Day, and was thus an example of the intertwinement of church and state in Denmark. In the fall of 2012, however, there was a case that showed that this intertwinement not only applied to the *folkekirke*: the police in Copenhagen chose Sunday morning to enter a house with people of African origin, in search of illegal immigrants. The people in the house protested, since they held a Sunday morning service, Sunday school, etc. After first having argued that the police had 'gone by the book', the police press representative later admitted: "Had we known it was a house used for services and that a service was taking place, then we would have waited."



Photo: Copyright Andreas Bro.⁸

However, this religious position, clearly established among the wider public and supported by the vicars and congregational councils at the two churches involved as well as by some of the bishops was, as already mentioned, questioned by other leading theologians, including bishops. One of these bishops went as far as to compare a church building with a ‘public house’, understood in all its connotations.⁹ He of course wanted to express a central theological point in a Lutheran context: no buildings are more sacred than others, as are no types of work more sacred than others. The central factor is their function as a service to God. The bishop therefore also objected – from a theologically informed secular point of view – the idea that the police should not be allowed to enter the church to capture illegal immigrants; on the contrary, his view was that the church was bound by the same legislation as any other institution in society.

The legislation concerning church buildings appeared to give public voice to what could be seen as a post-secular position, trying to intertwine two opposite positions. The law on churches¹⁰ thus opens for what could be seen as

8 This picture was taken by Andreas Bro, www.andreasbro.com, and pictured first in the daily newspaper, Information and later re-pictured several places, including in international news from the Danish church.

9 The formulation in Danish was: “.. ingen mennesker I Danmark skal kunne forbedre sin retsstilling ved at besætte en kirke – eller for den sags skyld et offentligt lokum”.

10 All legislation concerning the Danish *folkekirke*, including the law on churches is enforced by

a 'crack in the wall', stating that the congregational council is responsible for the use of church buildings in terms of their function as churches. The law also states that new buildings must be sacralised before being taken into use as a church. Former churches must be desacralized before being used for other purposes.

Even though Lutheran theology might thus lead to a strongly secularist position, Danish legislation governing the use of church buildings within *folkekirken* also respects religious sensitivities, establishing an intertwined position. This position was used as basis for a post-secular mental position in the concrete case.

Public debate in Denmark on whether or not a church building is in any way sacred opens for the third dimension in Kim Knott's spatial methodology: *the properties of space*, that is, how space takes shape in configuration, extension, simultaneity and power. In regard to the abovementioned case, this approach is about the extent to which the churches in play are configured by the people working in and belonging to it; or whether it can be extended by use of power by both the asylum-seekers and their supportive groups and by society at large, represented by the police.

From what has been said so far, it should be clear that extension is not only possible, but actually happens. In daily life the Cathedral of Copenhagen is just there, in use as a congregational church as well as a site from which Morning Prayer is broadcast daily. The church was destroyed in the early 19th century (by the Brits during the Napoleon wars) and was rebuilt in the neoclassical style with sculptures of Christ and the twelve apostles by the sculptor Bertel Thorvaldsen. Copies of the figure of Christ stand on the hillside outside Brazil and in the central hall in the Mormon Church in Utah; and in an extraordinary amount of small copies for sale not only in Denmark, but worldwide. The same is the case for the baptismal figure of an angel, wearing an oyster as baptismal dish for the water. Because of these sculptures, the church is now on the Danish list of cultural historical sites.

The Cathedral of Copenhagen was thus already before these events a configuration in the general public; this however increases at certain times, for example when the Crown Prince was married there in May 2004, or in connection with certain funerals and services such as the memorial service after the tsunami. It is generally understood by the Nordic public as well as by Nordic researchers that this public role of church buildings is a central dimension of the special links between church and state in the Nordic countries.¹¹

For many, the link to the state also implies that there is no space left for any

acts of parliament and governed by the minister for ecclesiastical affairs whereas the concrete executive powers by law are given to congregation councils, vicars and bishops.

11 This position is e.g. central in the works of Margit Warburg on civil religion in the Nordic countries, see for example Hvithamar, Warburg and Jacobsen: 2010.

religious power to be represented as a contrast to the secular powers of the land. Seen from this position, it is a matter of legal certainty, and the only legitimate power in the country is represented not by the church, but by the state. Accordingly no church may establish a space for any dimension of counter-power. The very concept of church asylum for both religious and secularist positions – and even for secularist positions on religious grounds, as we saw in the case of the bishop who advised against sacralisation of church buildings – seems impossible.

Others would however argue post-secularly, underlining that what the state links up with is a church, not a government ministry; thus the state should be obliged to support the church in its function as a church, leaving space for counter-forces on an evangelical basis. And an Evangelical Lutheran church as well as its ministers is, according to this understanding, morally or even religiously obliged to serve its neighbour in diaconal work – including civil insubordination – as long as no harm is done. This post-secular position would thus argue that the church is there precisely to limit the powers of the state on a religious basis, acknowledging the secular role of the state but not blindly following its laws – as long as no harm is done.

In her fourth methodological approach, Kim Knott suggests looking at *perceived, conceived and lived aspects of space*, and in her final approach she suggests analysing the *dynamic nature of space and its production*. To what extent are religious, secularist and/or post-secularist positions (re)producing the space in focus?

There is also a historical dimension in the Danish case of church asylum. Danish schoolchildren are taught that King Knud was killed in 1086 while trying to seek refuge at the altar in the Cathedral in Odense (the third-biggest city in Denmark). Historical accounts of this story are unclear and ambiguous; it never becomes clear on which side the Danes ought to stay. The king is called Knud the Holy; but any Danish child knows that this might be a discursive change of history from the side of the King's family or from the Catholic Church wanting the same result as the king, namely the suppression of the peasants. On the other hand, any Danish child also knows that a case based on the argument that the peasants were suppressed would always gain support in Danish history, which means that precisely this referral to the suppression of peasants also could be seen as an attempt to cover up for the real power. Somehow the case of Iraqi asylum-seekers is the same: on the one hand, everybody senses that something is wrong when people can sit for nearly ten years in asylum camps without reaching any solution; they might therefore have a case when they prefer to sit there instead of accepting various offers from the state. On the other hand there is general support for the Danish authorities, at least in asylum cases in general (though not necessarily in specific cases), since Denmark cannot receive all the persecuted refugees of the world who seek asylum.

When the group of young supporters of the Iraqi asylum-seekers decided to

call their group *Church Asylum*, they intended to play on precisely this historical and political ambivalence. They tried to evade theological discussions about the concept and just used the name as a historical/political concept for counteracting unfair state decisions. They also thought that the *folkekirke* would support this understanding and had not envisaged that authorities within the church (such as the abovementioned bishops) would establish secularist arguments on the basis of religious arguments, supporting the state's action against a church. Their goal was not to establish, widen or reproduce any limits for the church; but it came to irritate them that this issue became the central topic in the public discourse rather than the asylum-seekers themselves.

The political motivation of *Church Asylum* was to place the Iraqi asylum-seekers and their fate at the centre of what is perceived as Danish. The choice of a church, a church within the *folkekirke*, namely the Cathedral of Copenhagen, was politically motivated: nothing is more Danish. And even though it became necessary for activists within the *folkekirke* to negotiate this function according to religious and religiously motivated secular understandings, they hoped to succeed in showing that also a state church is relevant in a politically problematic situation. It was not relevant to church activists that these particular asylum-seekers were Muslims; what was relevant was their human situation. The supporting groups within the church did not consider religious difference to be relevant, either; indeed to the contrary. Very often, however, church activists working on asylum cases would rely on international Christian networks to supply information on whether a specific person was in danger according to international law. This is based on the understanding that the church is obliged to support the law according to its own underlying norms. According to involved religious persons there is thus room for criticism if the law does not live up to its own standards. Furthermore, nobody should ever be forcefully thrown out of a church unless they pose a danger to others, or the like. This position is based on an intertwined approach to religious and secular norms – a post-secular position for the Church of Denmark.

To *conclude* this spatial analysis I would thus argue that the church asylum case in Denmark in the summer of 2009 is a relevant example of a situation where a spatial analysis clearly reveals both religious and secularist positions, some of the religious positions even containing of what would normally be seen as secular arguments. A clearly secular position is, that even though a church might be a sacred space that does not open for a right to establish *church asylum*. A clearly religious position is, that a church building does contain a sacred dimension, which in itself also opens for religious arguments for supporting people in need for shelter – but also this position does not argue for a right to *church asylum*, just for a right to establish a counter voice.

The case also shows that the secularist position is even voiced with clear

religious support in the sense that it is supported to a certain extent by a Lutheran understanding of the role of the church.

I would further argue that a post-secular position is not only visible in the case (especially voiced by the young “lefties”). This position is also possible to establish due to deep normative structures, not only popular, but also legally and theologically theoretically informed. That is; due to the historically and currently established *intertwinement* of law and religion, the secular and the sacred, the role of the church and the role of the state, post-secular normative positions seem to have a much stronger basis than in societies where the normative deep structures much more build on separation

Finally, I would argue that there exists a common, intertwined ground between the religious, the secular and the post-secular positions and that this empirical reality seem very Nordic. It somehow seems impossible to find *the* (religious) position of the church on one hand; *the* secularist position of the state on the other. On the contrary, I would therefore also argue that the spatial analysis opens not only for establishing a new, intermediary position as post-secular, but that instead this methodological approach reveals an understanding, a common ground, which is already established through theological and political historical developments and thus appears to hold an intertwined position in the Nordic countries. The post-secular addition to this established *intertwinement* could be interpreted as a normative support to an empirical reality, which is not aimed at simply choosing between a religious and a secularist point of view. This normative support seems new in international discourses, since they have always focused on separating religion from secularity in a very catholic understanding. What seems to happen now is however the acceptance of, that empirical cases from other parts of the world might lead to different conceptual understandings. It seems however as if the normative dimension – post-secularity – could build on the empirically based concept *intertwinement* when analysing cases. In the same time, the concept of ‘post-secularity’ seems to add a discursive understanding and acceptance of the Nordic contribution as combining – intertwining – religious and secularist standpoints. This again makes it possible to reflect the Nordic intertwined position in international theory on religion, law and society.

Law is law and law is secular

In this second part of the article my aim is to further outline how far Lutheran arguments played a role in this specific case by informing not only a religious standpoint but also a secularist, post-secular standpoint, and to what extent it is possible to talk about post-Lutheran positions. My aim is to underline certain approaches in the theoretical framework presented by

John Witte in his contribution to this book and to let them serve as an analytical framework for further discussion of the abovementioned diverging standpoints on the concept of law, the role of the state/the police and the possibility of establishing church asylum in a Lutheran *folkekirke*. For my purposes the most central dimensions to focus on are elements in the Lutheran theory concerning the nature of the church, the theory of knowledge/authority and the theory of justice and law, including the Lutheran understanding of the role of the state.

In a Lutheran *understanding the nature of the church* is two-fold: it is an invisible community of faith, hope and love, and it is a visible structure, though not as a religious identity but rather as part of the earthly kingdom. Of course, church asylum affects the invisible community, but even this community has a visible structure, represented by the church building itself, by the congregations at stake and their councils, by priests, bishops and church ministers and, finally, by the general public.

However, it is vital to understand that the visible dimension or nature of the church is not seen as sacred or religious. In a Lutheran understanding there is no sacred or religious structure: visible structures are all part of the 'earthly kingdom'; that is, part of the legal structures established by the state.

In his contribution, John Witte argues that these earthly structures of the visible church, even though they are established through state law, are obliged to serve the norms and moral codes of the church; and many Lutheran theologians, especially from a German context, would argue the same way. Danish theologians, however, often underline that only the state structures and the democratically elected politicians decide what serves the moral structures of the church.

In this specific case, however, the laws governing the church revealed what I have called 'cracks in the wall': the church laws themselves, as already mentioned, oblige those responsible for church buildings to secure the character of the church through the use of the buildings. By doing so, 'earthly' (i.e. secular) laws have opened a tiny space for a sacred understanding of the nature of the church in its visible form, such as a building. It is thus possible to conclude that a Lutheran religious understanding of the church as a secular institution prevails, but that legislation also demonstrates a respect for church buildings which may not be Lutheran, but which is truly religious. The law on church buildings pertaining to this specific case can thus be seen as partly post-Lutheran. by not only arguing a total secular space, but including some (as tiny as they might be) religious identities in relation to the church building.

John Witte presents the common Lutheran distinction between Law and Gospel as a *theory of knowledge*, which gives it a fresh approach. And, he adds, this distinction is only visible to us through 'masks', such as a person's natural reasoning. As part of this theory on the distinction between Law and Gospel, he also presents the understanding of different types of households, usually

presented as a consequence of the three-estates theory of church, state and family spheres. The idea is that we are all folded into three different dimensions in our lives: the family sphere, the church sphere and the state sphere, and that those responsible for leading these three estates are accountable to God. In other words: fathers or husbands are accountable to God for the way in which their wives, children and servants, and church leaders and secular leaders are accountable to God for their leadership. This means that authority is not only granted by law: it should also be seen as (indirectly) granted by God, and therefore, as stated in the Bible, is requested of householders, that they are faithful.¹²

According to this understanding, in the role of, for example, a police officer, you are not only accountable to the state for how you treat people, but also to God. As a police officer you ought to know that you are both a sinner and a saint at the same time. Your job as a police officer is not a secular job in direct contrast to a sacred job such as that of a priest. On the contrary: both the priest and the police officer must see their respective roles as a vocation or a calling by God to serve him in earthly life.

It is part of this Lutheran understanding that a society needs not only good priests, but also good householders in the home sphere and good stakeholders in the public sphere. In a Lutheran understanding, the state sphere, which could seem to be exclusively secular from a secularist perspective, is as bound by religious norms as is the church sphere. Both the priest and the police officer are religiously and normatively bound to do a good job. And when a police officer is ordered to remove illegal asylum-seekers from a church, then he/she should do so without hesitation, though respecting the asylum seeker as a human being and himself/herself as accountable for the life of the other.

It is obvious how this theory can lead to – and has led to – religious legitimacy of state suppression, and that is of course why this theory of the sacred nature of offices of authority has been rejected by many, not least since World War II. However, if understood as a theory which does not allow any type of authority escape the Christian calling and which orders any authority to be accountable to God, the theory could also have led to an understanding whereby the police officers rejected forcible deportation of asylum-seekers, not only from a church building but also from the country. Thus this theory becomes part of the puzzle on both the religious and the secularist side.

As also presented by John Witte, a central dimension in the Lutheran Reformation was that *law is secular*. A consequence of this was that Canon Law was abolished as not being valid in the Reformed countries (in Scandinavia) any more. Later on, when the Jewish minority in Denmark was given

12 Her kræves det så af forvaltere, at de findes tro (Danish bible translation of 1992); [Now it is required that those who have been given a trust must prove faithful] (New International Version)(1 Kor 4, 2)

citizenship in 1814,¹³ this possibility was only offered on the condition that the Jewish minority would no longer follow Jewish law and instead follows the law of the land (such as in matters of marriage and inheritance). This is a further example of the general norm; religious law was no longer accepted in the Danish context. This issue was discussed in relation to the constitution of 1849, which in principle gave free access to all functions in the government system with no discrimination on the basis of religion. In the context of the constitution, this raised the issue that such a regulation would also open the way for Jewish citizens to become judges in the courts; and that was said to be precisely the purpose, since in the courts one is judged on the basis of secular law, not on basis of religious understandings of the law.¹⁴

In the Lutheran understanding, the law also has two different functions, both given by God: the justice of law is there for civil needs, i.e. in order to restrain people from sinful conduct, i.e.: conducts that destroy the ability to live together in the society, by threatening them with punishment. The law also has a theological function in order to make people conscious of their duty to give themselves to God.

Some branches of the Reformation would add a third use of the law, namely to teach the faithful the good will of God and on basis of that, build a good society. This third understanding of the use of the law is central in American – including Lutheran – theology as informed by the theology of Melancthon, by the Concordia Formula (never recognized in Denmark) and by Reformed (Calvinist) theology. This understanding of the law has also been common among more pietistic movements in Danish religious communities, especially those inspired by American theology and practice. There has, however, been much conflict – not least in still influential twentieth-century Danish university theology – associated with approaching this idea of a Christian as being anything but a sinner on the same level as anybody else in society.

When the Reformation talks about two – or even three – functions of the law, then this is not immediately directed at the law of the land or the law given by the king, but rather at the distinction between law and gospel in the Bible. The theory has, however, also had implications for understandings of what law is in a society and where we can learn about law. The abolition of canon law thus opened for possible chaos in Danish/Norwegian society, which let the King and his advisors in the sixteenth- and seventeenth-century post-

13 Jews had been a recognised minority in Denmark since 1685, when both Jews and Huguenots fleeing religious persecution in France and other European states arrived in Denmark. They were allowed to live in Denmark as foreign believers, that is as a community outside the normal Danish system of enforced belonging to Lutheranism, but then of course not as Danish citizens. Laws on citizenship were introduced in 1776, but Danish citizenship was not available for Jewish persons until 1814; riots in Copenhagen in reaction against the loss of Norway and state bankruptcy opened for this possibility.

14 For further discussions on this topic and also for a recent example of the same discussion, see Christoffersen 2012.

Reformation countries to look for norms in the Jewish bible. Thus the Ten Commandments became central and the Danish Law of 1685, which assembled all Danish legislation into one law, was based on the structure of the Ten Commandments.¹⁵ Danish criminal law still retains this structure – as well as in most of its norms, – relying on normative remains from the Ten Commandments, and were used as the basis for the instruction of school-children in connection with their confirmation. Introduced in 1736, leading to the public school laws of 1814 and having, as a consequences was that all Danish children in the 19th century learned to read, since they were required to read the law and the gospel.

Lutheran theory is, however, more refined than just relying on Mosaic Law. It is also a common understanding in Lutheran theory that Mosaic Law is only part of what could be called ‘natural law’, with which we are also familiar through legal reasoning. The first dimension of law is seen as ‘positive law’, established by the earthly kingdom, since it belongs to the function of the king – also in his accountability to God – to ensure good laws for society. And since Lutheran theology draws no distinction between Christians and other citizens in the earthly kingdom, the Christian is as bound by the (secular) law as anybody else, though also as a Christian, since as a Christian he is also called to obey the existing natural orders of household, church and state in society.

It has thus been part of Danish legal thinking since 1536 that there is no law but secular law and that it is precisely by establishing and securing the certainty of secular law that Christianity influences society. The Christian normative influence is thus not established through distinctive religious spheres, such as the church or the clerics or anything called ‘the sacred’. The Christian normative influence is established through ensuring that the King and anybody else after confirmation know how to interpret their commitment to God through the law.

Christianity is still taught in the Danish school system, now as part of a general religious course, though still according to school legislation aimed at giving pupils a general understanding of the Christian normative influence on society. And 75 per cent of all pupils aged 14 – 15 years are still confirmed; that is, they follow a course in the local church, given by the local vicar, teaching them the Ten Commandments, the Golden Rule, basic Christian narratives and a basic repertoire of Danish Christian hymns.¹⁶ It is thus still possible to argue that the Danish understanding of the role of the law or – perhaps more relevant – the content of the law is to some extent informed by Christianity. When a case like Church Asylum appears, this also becomes clear to the general public as well as to decision-makers, who at least after a while become able to distinguish between the function of the secular law and a possible calling of the church.

15 The same applies for the Norwegian Law of 1685.

16 See for a broader analysis of this question in the Nordic countries, Slotte 2010.

However, it is also obvious that this system based on a common understanding of the role of the law to also protect the weak is now under pressure. This pressure in itself calls for people within the church to take a clearer standpoint on what the law ought to do, as in the third use of the law in a reformed/calvinist language. And this is what was done by the religious groups, supporting the *church asylum* case.

One could thus argue that one (religious) standpoint in the case is post-Lutheran by also calling for the law as leading to a good life and calling for Christians as responsible for the good life of others; whereas another standpoint from theological positions was clearly Lutheran by arguing secularly about the law. One could, however, also argue that the lack of legitimacy behind the function of the law from religious parties in the case of Church Asylum – together with the pressure from real secular secularists and non-informed groups – put the system under pressure. The case thus shows a shift in the Danish debate towards post-Lutheran as well as post-secular standpoints.

The three different types of authority established in a Lutheran worldview are theologically speaking equal before God, but have complementary tasks in home, church and state. It is however clear that only state authorities have legal authority; and a central dimension of the Danish-Norwegian Reformation is that the church no longer has independent jurisdiction. This leaves the responsibility for securing the earthly as well as the spiritual needs of the people to the lawmakers, be they Christian or not. The general legislative power of the state is also responsible for securing freedom of religion and a context in which the church (and other religions) can fulfil their callings. In this way the secular laws have an intertwined function: they must secure intertwined religious and secular needs of the people. The state also took over responsibilities for welfare in general – and with its lawmaking powers having become democratically based since the turn of the mid-nineteenth century, these theories have become the normative function of the state.

Danes thus generally think that their influence on lawmaking as well as on executive powers relies on their democratic voice in government and politics and that these areas are of no concern to the church. An understanding that the church in its preachings should also remind the state of its obligations further supports the standpoint. Others would however argue that the church has obligations concerning the needs of the poor and the foreigners among us, even though the general obligation lies with the state.

These three positions are also clear in the material concerning the Church Asylum case. The Head of Police in Copenhagen also publically argued that there neither was nor should be any other legitimate use of power than that of the state (the police). Protests were of course legitimate, though it was up to the police to decide when the situation had to end in order to re-establish law and order, and the government was in line with this argumentation.

The Dean of Copenhagen and all the bishops involved have also argued that

there was only one law, which was secularly established by the state. They do, however, divide when it comes to whether the role of the church was solely to call on the state for the spiritual legitimacy of the law (the second position) or whether the church as church, that is: as a religious or even sacred space, also has special religious duties and functions of its own.

In regard to the role of the law and of the state, it is also possible to argue that not only the religious but also the secularist positions are religiously informed and thereby basically established on intertwined grounds; but that post-secular trends are pushing the Lutheran argumentation towards post-Lutheran positions.

Conclusion

The church asylum case ended three months after approximately sixty asylum-seekers took shelter in a church when the police entered the church building in the middle of the night and forcibly deported the asylum-seekers to Iraq. The picture of police officers subordinating the Gospel of Christ was published not only in national media but also in International Church News from Denmark, and provoked many. The question, however, is: What was the alternative? Which post-Lutheran and possibly also post-secular positions regarding the concept of the church, the law and the state were available? And how would the use of such alternative positions have changed the situation and thereby also Danish society?

The case no doubt maps a hidden sacrality of the – religiously informed – secular in the Danish context and thereby also voices the idea of a deep level structured intertwinement as a common ground. The wider population thinks otherwise of a church than to compare it to a ‘public place’ and so does the law on church buildings by requiring respect around their function as a church. There is therefore already openness in the Danish context towards the idea presented by Casanova in his contribution to this book of a modern and, to a certain extent, individual (or at least individualised) spiritual realm as the authentic space of the sacred. The congregational councils understood this when they first took responsibility for the immediate problematic position of the asylum-seekers – and the priests, *Church Asylum* and other supporters had all hoped that the use of a church building would have established a basis for a different solution. However, as also formulated by Casanova, the point is that even though there of course are tensions between the three domains of the religious-secular-sacred: a) the democratic national collective (including the civil religion function of the *folkekirke*); b) the Ecclesiastical Lutheran church; and c) the individual inward conscience, these tensions cannot lead to a radical chasm or schism between the three.

My conclusion is that it is part and parcel of the very identity of the Danish *folkekirke*, including the normative support of a Lutheran concept of the state

and the law as responsible for the well-being, as well as the limits of the people, that such a church cannot establish a real counterweight to the state forces. As a (post)-Lutheran church, individual congregational councils and priests can side with other, also leftist groups, in calling for law and order for asylum-seekers.

If however ecclesiastical theological understanding of the concept of the church changes into a more post-Lutheran position, then that could open for a concrete church as a space for the third use of the law, aiming at establishing the good society. That would however also in itself challenge a late Lutheran understanding of both the function of the law and the state. Since is it possible to uphold an understanding of the law as only secular, if the church, theologically speaking, has a role in securing the bodies of the individuals against state orders? And what is the role of the state, if the individuals, again theologically speaking, cannot rely on it as an instrument for establishing security and normative structures for the individuals belonging to the society?

I have in my analysis understood the *Church Asylum group*, the young “lefties”, as building on an intertwined understanding of the role of the church in the society. The question is however how far I am right in this. In their own mind, they just used the church for political purposes and they thought that this political discussion about the role of a church in a Lutheran state disturbed the case and moved the focus from the asylum seekers to the church as an ecclesiological challenge. It is thus also possible to understand the “lefties” as establishing not a religiously informed secularity, but a pure secularity with no use of or even misuse of the church building and the underlying religious norms. But still I cannot escape the understanding that even though there might be abuse of roles and powers hidden in the case, then still the general interpretation both theologically, legally and practically has to do with the hidden religiously informed interpretation of what it means to be a church, a state and law.

In this basically, intertwined order of post-secularity, the popular understanding of the church building should be respected, simply because the religiously informed secular understanding of the law also obliges this law and this state to secure spaces for sacrality. There is thus still basis for a critique against the police, taken superiority over the gospel in driving concrete individuals out of the church. On the other hand, a Lutheran state only has one (secular) law and one (secular) state. It does not allow for overlapping normative orders or parallel jurisdictions. In this understanding, the spiritual role from the side of the church is only to demand from the state that it by law secures the lives of all people in the country; and the role of the state, including the police, is – after having listened to this voice – to fulfill its calling to secure law and order in society under the final authority of God. What else could or should the police have done?

At the end of the day, this society has this just one law and one order, the order of the secular state, supported by Lutheran Christianity. A change in this

basic mutual support would imply changes in the conceptual understandings not only of what a church is, but also of what law is and of the role of the state.

The case however reveals a series of dilemmas, both within the religious understanding of the (post)-Lutheran state: is it still reliable? Within the secularist understanding of the role of the church: should that not be a sacred space? And within an intertwined understanding of what church, state and law is all about. The case thereby also very clearly shows, why our Nordic societies are currently, all of them, struggling with church-state-relations both theoretically, politically and legally.

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